



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Part 110

[NRC-2012-0278]

RIN 3150-AJ21

Addition of South Sudan to the Restricted Destinations List

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its export and import regulations by adding South Sudan to the list of restricted destinations. This amendment is necessary to conform the NRC's regulations with U.S. Government foreign policy.

DATES: The final rule is effective [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

ADDRESSES: Please refer to Docket ID NRC-2012-0278 when contacting the NRC about the availability of information for this final rule. You can access information related to this rule, which the NRC possesses and are publicly available, by any of the following methods:

- **Federal Rulemaking Web site:** Go to <http://www.regulations.gov> and search for Docket ID NRC 2012-0278.

- **NRC's Agencywide Documents Access and Management System (ADAMS):**

You may access publicly available documents online in the NRC Library at

<http://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "ADAMS Public Documents" and then select "Begin Web-based ADAMS search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.

- **NRC's Public Document Room (PDR):** You may examine and purchase copies of public documents at the NRC's PDR, O1- F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Brooke G. Smith, Senior International Policy Analyst, Office of International Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2347; e-mail: brooke.smith@nrc.gov.

SUPPLEMENTARY INFORMATION:

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I. Background.

The purpose of this final rule is to revise the NRC's export and import regulations in Title 10 of the *Code of Federal Regulations* (10 CFR) part 110, "Export and Import of Nuclear Equipment and Material," with regard to U.S. Government law and policy on South Sudan. South Sudan is an independent country, separate from Sudan. Following a referendum, South Sudan became an independent state on July 9, 2011, and the United States established diplomatic relations with South Sudan on the same day. Long-standing U.S. sanctions policy has been aimed at the current Sudan regime centered in Khartoum, Sudan, not South Sudan or its government, centered in Juba, South Sudan. The United States does not treat South Sudan as Sudan, and does not apply, for example, its Sudan Sanctions Regulations (31 CFR part 538) to South Sudan. Moreover, the Secretary of State's determination that Sudan provided repeated support for acts of international terrorism does not apply to South Sudan.

In light of the foregoing, the Executive Branch recommended that the NRC amend part 110 to add South Sudan to the restricted destinations list in § 110.29, while leaving Sudan on the embargoed destinations list in § 110.28. This means that exports of certain nuclear and byproduct materials to South Sudan may qualify for the NRC general license specified in §§ 110.21 through 110.24.

At present, South Sudan has no nuclear research or power program; however, South Sudan does have the need for radioactive sources for legitimate industrial, medical, and

research purposes in support of important economic and commercial development projects. Exports of radioactive sources from the United States for such purposes would be facilitated by the recognition of South Sudan as an independent country, separate from Sudan (Khartoum), by adding it to the restricted destinations list, while leaving Sudan on the embargoed destinations list in part 110.

The NRC staff has determined that adding South Sudan to the restricted destinations list, while leaving Sudan on the embargoed destinations list, is consistent with current U.S. law and policy, and will pose no unreasonable risk to the public health and safety or to the common defense and security of the United States.

Because this rule involves a foreign affairs function of the United States, the notice and comment provisions of the Administrative Procedure Act do not apply (5 U.S.C. 553(a)(1)). This rule will become effective immediately upon publication.

II. Voluntary Consensus Standards.

The National Technology Transfer and Advancement Act of 1995 (Pub. L. 104-113) requires that Federal Agencies use technical standards that are developed or adopted by voluntary consensus standards bodies, unless using such a standard is inconsistent with applicable law or otherwise impractical. This final rule does not constitute the establishment of a standard for which the use of a voluntary consensus standard would be applicable.

III.

Environmental Impact: Categorical Exclusion.

The NRC has determined that this final rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for the rule.

IV. Paperwork Reduction Act Statement.

This final rule does not contain new or amended information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et. seq.). Existing requirements were approved by the Office of Management and Budget (OMB), Approval Number 3150-0036.

Public Protection Notification

The NRC may not conduct or sponsor, and a person is not required to respond to, a request for information or an information collection requirement unless the requesting document displays a currently valid OMB control number.

V. Regulatory Analysis.

Addition of South Sudan to the restricted destinations list in § 110.29 means that exports of certain radioactive materials to South Sudan may qualify for the NRC general license

specified in §§ 110.21 through 110.24. There is no alternative to amending the regulations for the export and import of nuclear equipment and materials. This final rule is expected to have no changes in the information collection burden or cost to the public.

VI. Regulatory Flexibility Certification.

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)), the Commission certifies that this final rule will not have a significant economic impact on a substantial number of small entities. This rule affects only companies exporting nuclear equipment and materials to South Sudan which do not fall within the scope of the definition of “small entities” set forth in the Regulatory Flexibility Act (5 U.S.C. 601(3)), or the Size Standards established by the NRC (10 CFR 2.810).

VII. Backfit and Issue Finality.

The NRC has determined that a backfit analysis is not required for this rule, because these amendments do not include any provisions that would impose backfits as defined in 10 CFR Chapter I.

VIII. Congressional Review Act.

Under the Congressional Review Act of 1996, the NRC has determined that this action is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of OMB.

List of Subjects in 10 CFR Part 110

Administrative practice and procedure, Classified information, Criminal penalties, Export, Import, Intergovernmental relations, Nuclear materials, Nuclear power plants and reactors, Reporting and recordkeeping requirements, Scientific equipment.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR part 110.

Part 110 -- EXPORT AND IMPORT OF NUCLEAR EQUIPMENT AND MATERIAL

1. The authority citation for part 110 continues to read as follows:

Authority: Atomic Energy Act secs. 51, 53, 54, 57, 63, 64, 65, 81, 82, 103, 104, 109, 111, 126, 127, 128, 129, 161, 181, 182, 183, 187, 189, 223, 234 (42 U.S.C. 2071, 2073, 2074, 2077, 2092–2095, 2111, 2112, 2133, 2134, 2139, 2139a, 2141, 2154–2158, 2201, 2231–2233, 2237, 2239, 2273, 2282); Energy Reorganization Act sec. 201 (42 U.S.C. 5841); Solar, Wind, Waste, and Geothermal Power Act of 1990 sec. 5 (42 U.S.C. 2243); Government Paperwork Elimination Act sec. 1704, 112 Stat. 2750 (44 U.S.C. 3504 note); Energy Policy Act of 2005, 119 Stat. 594.

Sections 110.1(b)(2) and 110.1(b)(3) also issued under 22 U.S.C. 2403. Section 110.11 also issued under Atomic Energy Act secs. 54(c), 57(d), 122 (42 U.S.C. 2074, 2152). Section 110.50(b)(3) also issued under Atomic Energy Act sec. 123 (42 U.S.C. 2153). Section 110.51

also issued under Atomic Energy Act sec. 184 (42 U.S.C. 2234). Section 110.52 also issued under Atomic Energy Act sec. 186, (42 U.S.C. 2236). Sections 110.80–110.113 also issued under 5 U.S.C. 552, 554. Sections 110.130–110.135 also issued under 5 U.S.C. 553. Sections 110.2 and 110.42(a)(9) also issued under Intelligence Authorization Act sec. 903 (42 U.S.C. 2151 *et seq.*).

§ 110.29 [Amended]

2. Section 110.29 is amended by adding “South Sudan” to the list of restricted destinations.

Dated at Rockville, Maryland, this 19th day of December, 2012.

For the Nuclear Regulatory Commission.

R.W. Borchardt,
Executive Director for Operations.

[FR Doc. 2013-02620 Filed 02/05/2013 at 8:45 am;
Publication Date: 02/06/2013]